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6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 KIRBY SPENCER,

Plaintiff,

10 vs.

11 NATIONWIDE CREDIT, INC., a Foreign
12 Corporation doing business in Nevada,

13 Defendant.

CASE NO.:

**COMPLAINT FOR DAMAGES FOR
VIOLATION OF THE TELEPHONE**

**CONSUMER PROTECTION ACT,
47 U.S.C. § 227 ET. SEQ.**

JURY TRIAL DEMANDED

14
15 **COMPLAINT**

16 COMES NOW, KIRBY SPENCER ("Plaintiff"), by and through his attorney, Craig K.
17 Perry, Esq. of the law firm of Craig K. Perry & Associates, and alleges the following against
18 NATIONWIDE CREDIT, INC. ("Nationwide").

19 **INTRODUCTION**

20 1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47
21 U.S.C. §227 *et seq.* ("TCPA").

22 **JURISDICTION AND VENUE**

23 2. Jurisdiction of this Court arises pursuant to 47 U.S.C § 227(g)(2), and 28 U.S.C. §
24 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United
25 States.

26 3. Nationwide conducts business in the State of Nevada and therefore, personal
27 jurisdiction is established.

CLAIM FOR RELIEF

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

14. Plaintiff repeats, re-alleges, and incorporates by reference paragraphs 1 through 13 inclusive, above.

15. Section 227(b)(3)(A) of the TCPA authorizes a private cause of action for a person or entity to bring in an appropriate court of that state “an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation.”

16. Section 227(b)(3)(B), of the Act authorizes a private cause of action for a person or entity to bring in an appropriate court of that state “an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.”

17. Despite the fact that Plaintiff never consented to Nationwide making calls to his cellular telephone, Nationwide repeatedly placed non-emergency calls to Plaintiff’s cellular telephone without Plaintiff’s consent.

18. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations when they are done “willfully and knowingly.”

19. Here, upon information and belief, Nationwide repeatedly and regularly placed non-emergency, automated calls to Plaintiff’s cellular telephone.

20. Nationwide did not have Plaintiff’s express consent prior to contacting him on his cellular telephone using an automatic telephone dialing system or pre-recorded or artificial voice.

21. Nationwide’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by making any call by way of SMS text messaging using any automatic telephone dialing system or an artificial prerecorded voice to a telephone number assigned to a cellular telephone service.

WHEREFORE, Plaintiff, Kirby Spencer, respectfully prays for a judgment as follows:

- a. Actual damages;
- b. Statutory damages up to \$500 per violation;
- c. Reasonable attorney’s fees and costs; and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff Kirby Spencer demands a trial by jury in this case.

DATED: December 5th, 2014

RESPECTFULLY SUBMITTED,

CRAIG K. PERRY & ASSOCIATES



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